

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TERRENCE BARNES

Petitioner,

v.

MARGARET BRADSHAW, WARDEN

Respondent.

CASE NO.: 1:10CV02597

JUDGE DONALD C. NUGENT

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge George J. Limbert. The Report and Recommendation (ECF #23) is hereby ADOPTED. Petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on October 27, 2010 challenging the constitutionality of his convictions for felonious assault and kidnapping. The Petition alleged the following violations of due process: (1) denial of a fair trial when the State was permitted to introduce testimony about prior bad acts not at issue in the indictment and the jury was given no limiting instruction about other-acts evidence; (2) misconduct by the trial judge in making inappropriate and prejudicial comments; (3) denial of due process when the trial judge sentenced Petitioner to a greater term of imprisonment based on his choice to go to trial following the reversal of his conviction on a plea; (4) ineffective assistance of trial counsel in failing to request a limiting instruction and object to the trial judge's prejudicial remarks and Petitioner's vindictive sentence; (5) ineffective assistance of appellate counsel in failing to raise the issue of the incomplete transcript; (6) ineffective assistance of trial and appellate counsel in failing to make the preliminary hearing part of the record; (7) ineffective appellate counsel in


FILED
2012 JUL 13 PM 2:49
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

failing to raise the issue of ineffective trial counsel; and (8) ineffective appellate counsel in failing to challenge the indictment, the manifest weight of evidence, and improper conveyance of jurisdiction (ECF #1). Petitioner later filed a motion for the appointment of counsel (ECF # 22).

Magistrate Judge Limbert found that Petitioner's claims 1, 5, and 8 were not cognizable. Magistrate Judge Limbert also found that Petitioner's claims 2, 3, 4, 6, and 7 lacked merit, and therefore recommended that the Petition should be dismissed, along with Petitioner's motion for the appointment of counsel. The Petitioner then timely filed his objections to the Magistrate's Report and Recommendation (ECF #24).

The Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objection has been made. *See* FED R. CIV. P. 72(b). The Court finds Magistrate Judge Limbert's Report and Recommendation to be thorough, well-written, well-supported, and correct. The Court finds that Petitioner's objections raise no arguments (factual or legal) that have not been fully addressed by the Magistrate's Report and Recommendation.

The Magistrate's Report and Recommendation fully and correctly addresses all of Petitioner's claims and the Petitioners objections are unwarranted. This Court, therefore, adopts the Magistrate's Report in its entirety. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b). Petitioner's motion for habeas corpus is hereby DENIED. IT IS SO ORDERED.


DONALD C. NUGENT
United States District Judge

DATED: 